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MCCA

MASSACHUSETTS CONVENTION
CENTER AUTHORITY

Hynes Convention Center Feasibility Study

December 2007



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Massachusetts Convention Center Auth.
Hynes Convention Center feasibility study

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Executive Summary

As a result of the careful deliberation and recommendations of the Hynes Convention Center and Boston Common Parking Garage Commission established by the General Court, The Massachusetts Convention Center Authority (the "Authority") prepared a comprehensive development feasibility study (the "Study") to evaluate the economic and policy feasibility of repositioning two or more areas within the Hynes Convention Center (the "Hynes") from office, meeting, and service uses into commercial retail and/or restaurant uses in order to enhance the economic performance of the Hynes, improve its physical integration with the vibrant Back Bay neighborhood, and further the Authority's core mission of generating economic activity across the Commonwealth.

The Authority engaged Meredith & Grew, a commercial real estate firm, to assist in the preparation of the Study.

The Study included a complete economic analysis of the capital costs, operating costs, and operating revenues of each of the possible retail/restaurant uses in order to evaluate the economic performance and viability of the proposed conversion projects.

The Study concluded that the conversion of certain, limited portions of the Hynes into retail uses would enhance the facility's annual economic performance. This could be done without detracting in any way from the Authority's mission to provide exhibition and meeting facilities for local, regional, national and international associations and groups seeking to hold conventions in the facility. This conclusion is based on the Study's finding that the capital investment required to perform this use conversion would yield commercially reasonable rates of economic return and positive Net Present Values that justify the expenditure. Furthermore, the Study concluded that the addition of active retail and/or restaurant uses to the Hynes would enhance the conventioner experience while also enhancing the quality of the streetscape along Boylston Street and complementing the thriving retail and restaurant uses already present in the Back Bay neighborhood.

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1.0 Background

1.1 - Facility Overview

The Hynes Convention Center is a 360,000 square foot convention facility located in Boston's world-famous Back Bay neighborhood. This facility, originally known as the John B. Hynes War Memorial Auditorium, features 193,000 square feet of exhibit space and over 70,000 square feet of meeting room space. The Hynes was initially constructed in the early 1960s, at the same time as the Massachusetts Turnpike Extension. The facility was transferred from municipal ownership to the Authority in 1982, and underwent a major capital upgrade and addition in 1985-7. In 2006, the Hynes hosted approximately 130 events, received 326,615 attendees, generated approximately 281,340 associated hotel room nights in area hotels, and generated approximately \$234 million in direct economic activity.

1.2 - Market Position

The Hynes is a nationally favored destination for medical, life sciences, and technology meetings and conventions due to its proximity to the Longwood Medical Area life sciences cluster, MIT, and the hotel, retail, restaurant, cultural, and recreational amenities of the Back Bay neighborhood. Partly as a result of this strong position in these science and technology markets, the Hynes is currently undergoing an \$18 million renovation program including significant updates to the facility's technology features that will help it to maintain its national market position as a major destination for these technology-intensive events.

1.3 - Genesis of Conversion Study

The Legislative Commission established by St. 2004, c. 266, s. 593 convened to examine the financial performance of the Hynes issued its final recommendations in December of 2006. The Commission was made up of twelve members, three appointees each of Governor Romney, Senate President Travaglini, Speaker DiMasi and Mayor Menino, and the membership drawn from such knowledgeable and interested entities as the Neighborhood Association of the Back Bay; the Boston Redevelopment Authority; the Greater Boston Chamber of Commerce; the Greater Boston Convention and Visitors Bureau; and the Massachusetts Lodging Association. The Commission recognized the importance of the Hynes as a state and local economic development engine and tasked the Authority with evaluating options to enhance the Hynes' overall operating performance to further solidify its fiscal position.

Building upon the Legislative Commission's recommendations, the Authority, with the assistance of consultants familiar with the retail and restaurant market in the Back Bay and the technical aspects of retail and restaurant design and construction, developed preliminary plans to convert certain areas within the Hynes to retail or restaurant use in order to enhance the facility's annual financial performance and improve the experience of visitors to the Hynes in a manner consistent with the Authority's core mission.

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2.0 Areas of Study for Retail/Restaurant Conversion

2.1 - Evaluation Criteria

The Authority considered multiple key criteria when evaluating possible areas within the Hynes for possible conversion to retail/restaurant use. These criteria included the following:

- Converted area must be of secondary or minimal importance to current core convention operations.
- Converted area must be economically viable on a stand-alone basis.
- The proposed use for the converted area must be designed to enhance the conventioner experience.
- Converted area must help to integrate, physically, the Hynes with the Back Bay neighborhood.

2.2 – Study Areas

The Authority identified three specific areas that reflected all of these criteria and developed preliminary concept design plans to be used in a comprehensive economic analysis of the proposed use conversion.

The current and proposed conditions of the areas identified for possible conversion are as follows:

2.2.1 – Corner of Dalton and Boylston Streets

The Authority identified the corner of Dalton and Boylston Streets as a possible opportunity for conversion into revenue-producing retail or restaurant use. This space is currently occupied by meeting rooms 206 and 210 and the circulation area associated with the Boylston Street promenade located on the main level of the Hynes. None of the current uses are essential to the long-term operations of the Hynes as a major nationally recognized convention and meeting destination.

This area could be converted into approximately 10,248 square feet of prime retail or restaurant use with frontage on both Boylston and Dalton Streets. The Study considered that the majority of the new retail or restaurant space's frontage on both streets could add some glass storefront in lieu of the current blank masonry wall, a design concept that would enliven the street edge on both of these thoroughfares and help to integrate the Hynes into the urban context of the Back Bay neighborhood.

This retail or restaurant space's primary entrance would likely be located near the corner of Boylston and Dalton Streets, but provision would be made for an entrance internal to the Hynes in order to provide a direct connection for the benefit of convention-goers.

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2.2.2 - Corner of Boylston Street and Prudential Plaza

The Authority identified a two-story space located at the corner of Boylston Street and the Prudential Center plaza as a possible opportunity for conversion into revenue-producing retail or restaurant use. This space is currently occupied by the Authority's former executive offices, which are now vacant and meeting room 200 located on the main level of the Hynes. None of the current uses are essential to the long-term operations of the Hynes as a major nationally recognized convention and meeting destination.

This area could be converted into approximately 9,400 square feet of prime retail or restaurant use with frontage on Boylston Street. The Study considered that the majority of the new retail or restaurant space's frontage on Boylston Street and the Prudential Center plaza could add some glass storefront in lieu of the current masonry wall, a design concept that would enliven the public realm along this section of Boylston Street and help to integrate the Hynes into the urban context of the Back Bay neighborhood.

This retail or restaurant space's primary entrance would likely be located near the corner of Boylston Street and the Prudential Center plaza, but provision would be made for an entrance internal to the Hynes in order to provide a direct connection for the benefit of convention-goers.

2.2.3 - Existing Cafeteria Space

The Authority identified the current Cafeteria space in the main corridor as a possible opportunity for conversion to revenue-producing retail or restaurant use. The MCCA's study found that such conversion may incur extraordinary costs associated with relocating certain building infrastructure. As a result such conversion was found not to be economically viable based on current market rents. In addition, public access issues would complicate the marketability of the space to customary commercial tenants.

The MCCA will continue to examine possible alternative uses for the Cafeteria space that will enhance the convention experience, including possible alternatives for revenue-producing uses.

Each of the above-referenced spaces meets the criteria outlined in section 2.1 and achieves the basic objectives of the Legislative Commission. A preliminary analysis by the Authority, with the assistance of its technical consultants, found that each of these areas could be readily converted to retail or restaurant use without significant disruption to ongoing Hynes operations.

Conceptual floor plans for each of the proposed conversion projects, prepared by Arrowstreet Architects, are attached as Appendix A.

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3.0 Market Analysis

The Authority engaged Meredith & Grew, a commercial real estate firm, to advise it on the conditions of the Back Bay restaurant and retail markets and the rental income that could reasonably be expected from the above-referenced areas of study for conversion if constructed in a manner responsive to customary market standards and expectations.

3.1 - Back Bay Market Conditions

The Back Bay retail and restaurant markets, generally comprised of the Newbury and Boylston Street corridors and the Prudential Center and Copley Place urban retail centers, are among the strongest in the nation in terms of annual sales, rental rates per square foot, and sustained economic performance.

Supported by a combination of local residents, office workers, students, regional visitors, and national and international tourists and conventioners, the Back Bay retail and restaurant markets benefit from strong real estate fundamentals and a regionally significant critical mass that attracts retail and restaurant tenants from across the nation. As was concluded by the Legislative Commission, the Hynes plays an important role in supporting the Back Bay's retail and restaurant establishment with approximately 326,615 meeting and convention attendees in 2006 alone. The national real estate investment community's belief in the long-term strength of Back Bay's retail and restaurant markets is evidenced by significant new retail development planned for the Boylston Street corridor, including the following projects, each of which includes a substantial high-value retail component:

- Mandarin Oriental Hotel & Residences (approximately 53,000 SF of retail and restaurant use)
- Neiman Marcus expansion project at Copley Place (65,000 SF of additional retail uses)
- Redevelopment of 300-block of Boylston Street
- Apple Store development (approximately 21,350 SF of retail use)
- 888 Boylston Street (approximately 45,000 SF of additional retail on two levels)

3.2 - Rental Rates Applicable to Proposed Conversion

Average retail and restaurant rents for customarily sized and serviced spaces in the blocks of Boylston Street surrounding the Hynes range from \$40-\$70 per square foot on a so-called "triple-net" basis, indicating that the tenant is responsible for paying the operating expenses for the leased space. Projected rents used in this Study ranged from \$40-\$50 "triple-net," reflective of the lower end of the market spectrum in order to achieve a reasonably conservative analysis of the proposed conversion program.

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4.0 Financial Analysis

In order to assess the financial feasibility of each of the proposed retail/restaurant conversion scenarios summarized in section 2.2 of the Study, the Authority engaged Meredith & Grew to develop comprehensive development financial models for each of the conversion scenarios. These financial models included a conceptual development cost estimate for each scenario, prepared by the Lee Kennedy Company, a large Boston-based construction management firm experienced in interior rehabilitations of existing structures in the City of Boston.

4.1 - Analytical Methodology

The Meredith & Grew financial models compared the total initial development costs of each of the proposed conversion projects with the net annual revenues projected to be generated by each of the proposed conversion projects for a period of ten (10) years based on the net rentable areas of each proposed conversion space and the market conditions outlined in section 3.2 of this Study. Based on this information, the financial models calculated the Return on Cost, Net Present Value (NPV) and Internal Rate of Return (IRR) of these cost/income streams for each proposed conversion space. This straightforward methodology, which is a common methodology of evaluating commercial investment returns, establishes two basic performance metrics that define the financial feasibility of each of the proposed conversion projects.

The financial models for each of the proposed conversion projects are attached as Appendix B.

4.2 – Analytical Results

The results of the financial modeling described above are as follows for each of the proposed retail/restaurant conversion projects:

4.2.1 - Corner of Dalton and Boylston Streets

The financial analysis of the proposed Boylston/Dalton Street retail/restaurant space resulted in the following conclusions:

- Total Development Cost: \$2,719,557
- Stabilized Annual Net Operating Income (NOI): \$409,920
- Return on Cost: 15.1%
- Net Present Value (NPV): \$261,107
- Internal Rate of Return (IRR): 9.1%

4.2.2 - Corner of Boylston Street and Prudential Plaza

The financial analysis of the proposed Boylston/Prudential Plaza retail/restaurant space resulted in the following conclusions:

- Total Development Cost: \$2,714,845
- Annual Net Operating Income (NOI): \$470,000
- Return on Cost: 17.3%

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- Net Present Value (NPV): \$676,297
- Internal Rate of Return (IRR): 12.3%

4.3 – Conclusion

The financial analysis described above concludes that each of the proposed retail/restaurant conversion projects is economically feasible and exhibits commercially reasonable levels of economic return. Furthermore, each of the proposed conversion projects is economically viable on a stand-alone basis; not one of the proposed projects is needed to cross-subsidize another in order to achieve an overall positive economic result.

The proposed conversion projects are projected to generate approximately \$879,920 per year in net operating income for an initial investment by the Authority of approximately \$5,434,402.

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5.0 Conclusion

Responding to the recommendations of the Legislative Commission report, the Authority has identified multiple opportunities to reposition currently underutilized areas within the Hynes Convention Center to retail or restaurant use. These conversions are intended to accomplish multiple policy and fiscal objectives of the Authority, including the following:

- Enhancing the annual financial performance of the Hynes Convention Center by adding new sources of revenue;
- Enhancing the visitor experience within the Hynes Convention Center;
- Improving the physical integration between the Hynes Convention Center and the Back Bay neighborhood; and
- Furthering the Authority's core mission of generating economic activity.

The economic viability of each of the proposed conversion projects was analyzed by the Authority and its real estate consultant. Each of the proposed conversion projects is projected to generate commercially reasonable rates of return, which collectively will enhance the financial performance of the Hynes Convention Center while contributing to the Authority's fundamental long-term public policy objectives for the facility.

1. Introduction

The purpose of this report is to provide a summary of the findings of the research conducted by the research team. The research was conducted in order to determine the impact of the proposed policy on the economy. The findings of the research are presented in the following sections.

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Exhibit A: Potential Floor Plans

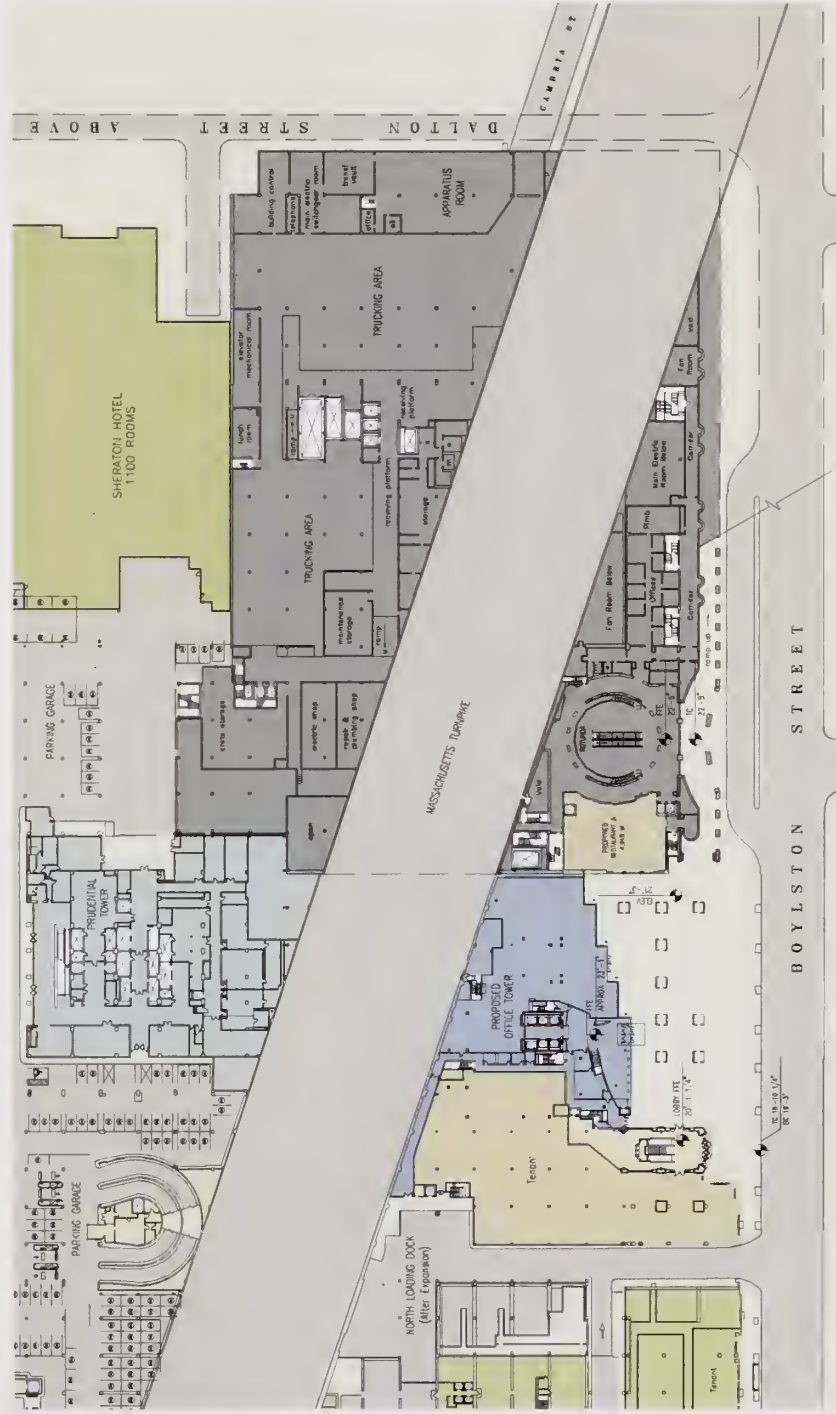
Committee on the



**Hynes Convention Center Retail
Feasibility Study**
Boston, MA

Scale: 1" = 100'
20 December 2007
ASTMO-00031

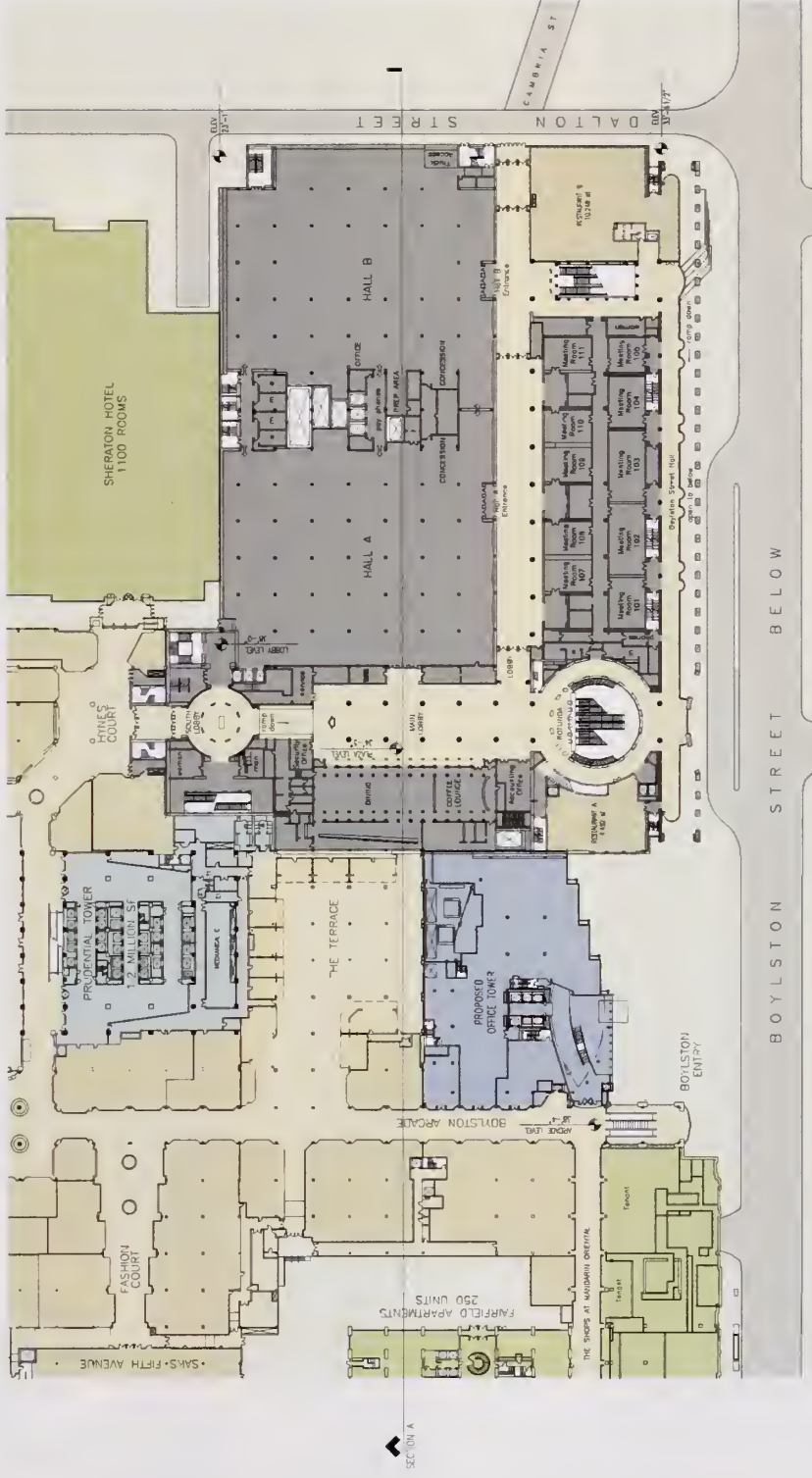
**Restaurants Scheme
Proposed Lower Level Plan
(Prudential Street Level/Hynes Lower Level)**



NOTE: This is a schematic drawing for conceptual purposes only. All dimensions, elements, building configurations, features, boundary, road, topographic lines, and the internal layout of buildings are assumed to be correct based upon the given information, but are subject to field verification. Tenants shown are a conceptual representation of the type of tenant expected and do not represent actual leased space. Owner retains right to change plans as required.

Area Tabulation:

Restaurant A: 11,400 sf	9,400 sf
Restaurant B: 10,248 sf	10,248 sf
Total GFA	19,648 sf



NOTE: This is a schematic drawing for conceptual purposes only. All dimensions, elevations, building configurations, features, boundary lines and the interrelationships of buildings are assumed to be correct based upon the given information, but are subject to field verification. Tenants shown are for illustrative purposes only and do not represent actual leased space. Owner reserves the right to change plans as required.

ARROW STREET
Architectural Urban Design Planning, Analysis and Services
1000 Massachusetts Avenue, Suite 1000, Boston, MA 02118

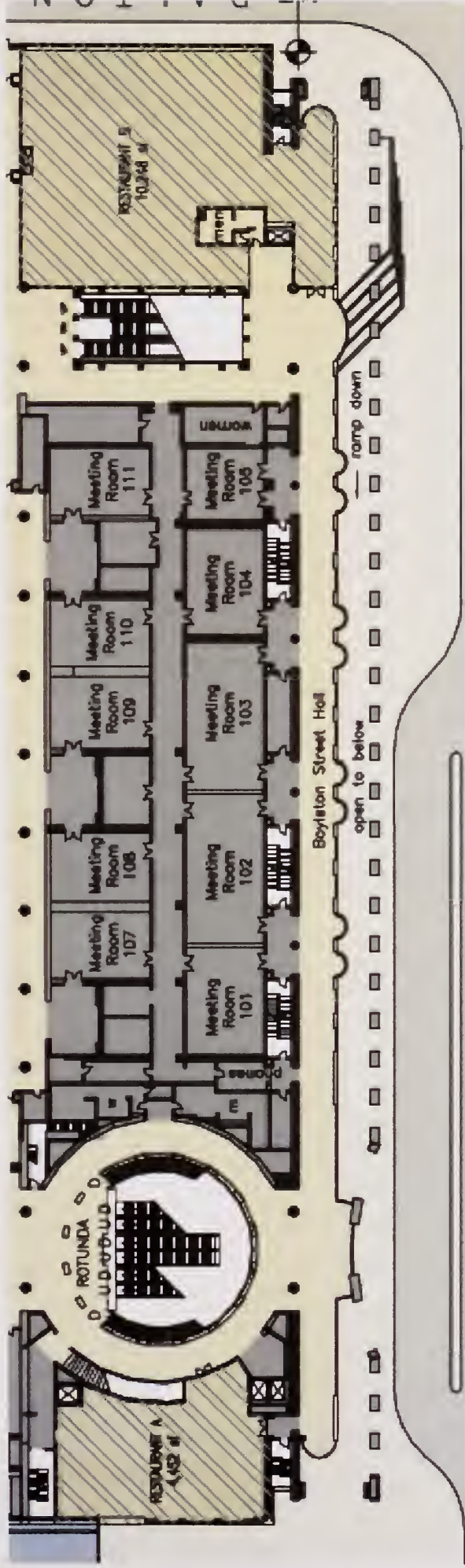
Restaurants Scheme
Proposed Upper Level Plan
(Prudential Arcade Level/ Hynes Plaza Level)

Scale: 1" = 100'
20 December 2007
ASTND-100031

Hynes Convention Center Retail
Feasibility Study
Boston, MA

Meredith & Grew
ONCOR

Upper Level



Lower Level

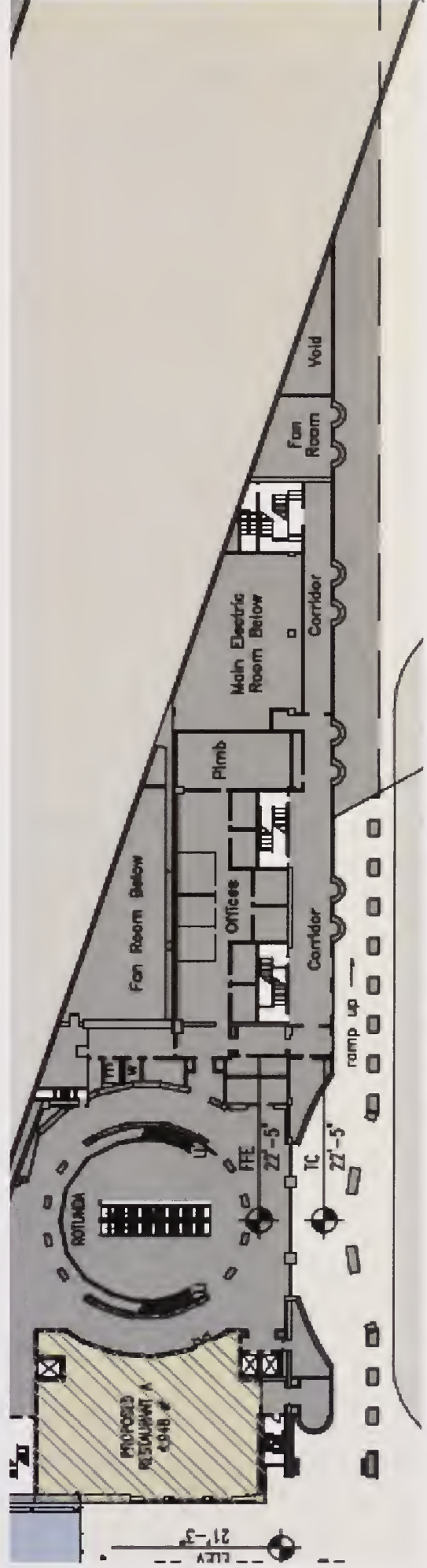


Exhibit B: Financial Models

Cost & Revenue Analysis						
	Description	SF	MCCA Costs	Cost \$/SF	MCCA Stabilized NOI	Revenue \$/SF
Restaurant A	Restaurant at Prudential Plaza Corner	9,400	\$2,714,845	\$289	\$470,000	\$50
Restaurant B	Restaurant at Dalton St Corner	10,248	\$2,719,557	\$265	\$409,920	\$40

Rent/IRR Analysis											
	Description	RSF	NNN Rent								
			\$10	\$15	\$20	\$25	\$30	\$40	\$50	\$60	
Restaurant A	Restaurant at Pru Plaza Corner	9,400	-	-	-	-	2.1%	7.6%	12.3%	16.6%	
Restaurant B	Restaurant at Dalton St Corner	10,248	-	-	-	-	3.5%	9.1%	14.0%	18.4%	

RESTAURANT A RSF 9,400

MODEL ASSUMPTIONS	
Triple NNN Restaurant A Rent (Annual)	\$50 /per SF
Lease Term (years)	10
5 Year Rent Escalation	10.0%
Discount Rate	7.0%

PROJECT COST SUMMARY			
HARD COSTS - Estimates by Lee Kennedy & Co.			
	RSF	Total	Source
Restaurant A Core and Shell by MCCA			MCCA
Total Core & Shell	\$106	\$987,445	
Restaurant A Work Letter (TI paid by MCCA)	\$125	\$1,175,000	MCCA
Total Work Letter	\$125	\$1,175,000	
Restaurant A TI (Paid by Tenant)	\$114	\$1,069,075	TENANT
Total TI Paid by Tenant	\$114	\$1,069,075	MCCA
TOTAL LANDLORD HARD COSTS	\$231	\$2,172,445	MCCA
SOFT COSTS - Estimates by Arrowstreet/M&G			
	RSF	Total	Source
Architectural Services	\$15	\$141,000	MCCA
Owner's Rep		\$80,000	MCCA
Consultants	8 mths @ \$7,500/mth allowance	\$50,000	MCCA
Leasing	4.0% of lease value	\$197,400	MCCA
Engineering	\$10	\$84,000	MCCA
TOTAL LANDLORD SOFT COSTS	\$58	\$542,400	MCCA
TOTAL LANDLORD COSTS	\$289	\$2,714,845	MCCA

IRR CALCULATION												
RESTAURANT A		Development Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11
PROJECT COSTS		2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Total Core & Shell		(\$997,445)										
Total Work Letter		(\$1,175,000)										
Soft Costs		(\$542,400)										
SUBTOTAL COSTS INCURRED		(\$2,714,845)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
PROJECT REVENUES		Annual Rent										
SUBTOTAL REVENUE		\$0	\$470,000	\$470,000	\$470,000	\$470,000	\$470,000	\$470,000	\$470,000	\$470,000	\$470,000	\$470,000
NET ANNUAL CASH FLOW		(\$2,714,845)	\$470,000	\$470,000	\$470,000	\$470,000	\$470,000	\$470,000	\$470,000	\$470,000	\$470,000	\$470,000
11-YEAR IRR		12.3%										
NPV		\$676,297										
ROC		17.3%										

Notes:
 Model does not include financing costs or debt service
 Cost estimates are conceptual, based on Arrowstreet plans dated October 29, 2007
 Hard Costs include 10% contingency
 Rent/TI allowances provided by M&G's Retail Brokerage Group

RESTAURANT B 10,248 RSF

MODEL ASSUMPTIONS

Rentable Square Feet	10,248
Triple NNN Rent (Annual)	\$40 per SF
Lease Term (years)	10
5 Year Rent Escalation	10.0%
Discount Rate	7.0%

PROJECT COST SUMMARY

HARD COSTS - Estimates by Lee Kennedy & Co.			
	\$/SF	Total	Source
Restaurant B Core and Shell by MCCA	\$90	\$925,191	MCCA
Work Letter (TI paid by MCCA)	\$125	\$1,281,000	MCCA
TI (paid by tenant)	\$54	\$550,885	TENANT
Total Restaurant B Tenant Improvement	\$179	\$1,931,985	MCCA
TOTAL LANDLORD HARD COSTS	\$215	\$2,206,191	MCCA

SOFT COSTS - Estimates by Arrowstreet/M&G

	\$/SF	Total	Source
Architectural Services	\$15	\$153,720	MCCA
Owner's Rep	\$60,000	\$60,000	MCCA
Consultants	\$25,000	\$25,000	MCCA
Leasing	\$172,166	\$172,166	MCCA
Engineering	\$10	\$102,480	MCCA
TOTAL LANDLORD SOFT COSTS	\$50	\$513,399	MCCA
TOTAL LANDLORD COSTS	\$295	\$2,719,557	MCCA

IRR CALCULATION

PROJECT COSTS	Operating Year										
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11
Restaurant B Core and Shell by MCCA	(\$925,191)										
Work Letter (TI paid by MCCA)	(\$1,281,000)										
Soft Costs	(\$513,366)										
SUBTOTAL COSTS INCURRED	(\$2,719,557)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
PROJECT REVENUES											
Annual Rent		\$409,920	\$409,920	\$409,920	\$409,920	\$409,920	\$409,920	\$409,920	\$409,920	\$409,920	\$409,920
SUBTOTAL REVENUE	\$0	\$409,920	\$409,920	\$409,920	\$409,920	\$409,920	\$409,920	\$409,920	\$409,920	\$409,920	\$409,920
NET ANNUAL CASH FLOW	(\$2,719,557)	\$409,920	\$409,920	\$409,920	\$409,920	\$409,920	\$409,920	\$409,920	\$409,920	\$409,920	\$409,920

11-YEAR IRR 9.1%

NPV \$261,107

ROC 15.1%

Notes:
Model does not include financing costs or debt service
Cost estimates are conceptual, based on Arrowstreet plans dated November 6, 2006
Hard Costs include 10% contingency
Rents/TI allowances provided by M&G's Retail Brokerage Group



ACTS, 1982. - Chap. 190.

the Massachusetts Convention Center Authority, all employees who then hold full-time, permanent positions at those facilities and who held such positions as of June first, nineteen hundred and eighty-two under a permanent appointment classified under chapter thirty-one of the General Laws or with tenure by reason of section nine A of chapter thirty of the General Laws, shall become employees of the Authority without impairment of civil service status, seniority, retirement and other rights, and without interruption of service within the meaning of said chapter thirty-one or section nine A of said chapter thirty, and without reduction in compensation and salary grade, notwithstanding any change in their job titles or duties, subject, however, to the provisions of chapter thirty-one, and the rules and regulations thereunder. All said employees who upon such acquisition hold, without such tenure, positions not so classified, and who held such positions as of June first, nineteen hundred and eighty-two shall become employees of the Authority without impairment of seniority, retirement, and other rights, without interruption of service within the meaning of the said section nine A of said chapter thirty, and without reduction in compensation and salary grade; provided, however, that nothing in this section shall be construed to confer upon any employee any rights not held prior to the transfer or to prohibit any subsequent reduction in compensation or salary grade if such were not prohibited prior to the transfer; and provided, further, that this section shall not apply to persons employed by the Authority who were not employed at the John B. Hynes Veterans Memorial Auditorium or the Boston Common Parking Garage prior to acquisition of said facilities by the Authority.

SECTION 38E. Subsequent to the preparation and submission of the proposals required under section thirty-eight of this act, the Authority shall be authorized to prepare and submit to the governor, the president of the senate, the speaker of the house of representatives, the chairman of the senate committee on ways and means, the chairman of the house committee on ways and means and the secretary of administration a feasibility study relative to the development and operation by the Authority of a multi-purpose arena of sufficient size and with adequate facilities to accommodate major civic, athletic, recreational and entertainment events, which study shall include, but not necessarily be limited to, the following:

(a) a description of the location deemed suitable by the Authority for said multi-purpose arena;

(b) a description of the lands, structures, fixtures, and facilities deemed necessary or appropriate by the Authority for

ACTS, 1982. - Chap. 190.

the construction or reconstruction of said multi-purpose arena;

(c) an estimate of the capital expenses estimated by the Authority as necessary for the construction or reconstruction of said multi-purpose arena;

(d) an estimate of the operational expenses estimated by the Authority as necessary for the operation and maintenance of said multi-purpose arena;

(e) a proposal by the Authority for the provision of funds sufficient to meet the capital and operating costs, including projected income, associated with said multi-purpose arena;

(f) such feasibility study shall be conducted by an independent firm; and

(g) and a description of the environmental and economic affects on the immediate community, the housing and parking needs of the community and the arena's affect on residential and commercial displacement.

SECTION 39. The Authority shall establish a special fund, to be known as the Civic and Convention Center Fund and shall deposit in such fund any grant funds received under the provisions of chapter four hundred and eighty-six of the acts of nineteen hundred and eighty which amounts may be expended by the treasurer as authorized by vote of the Authority and without further appropriation; provided, that all such funds shall be used solely for the purpose of paying for the cost of a project under the provisions of this act. A report including an audit prepared by a certified public accountant shall be submitted annually by the Authority to the secretary of administration and finance and the house and senate committees on ways and means.

SECTION 40. The Authority shall, within one hundred and twenty days following the close of the fiscal year, submit an annual report of its activities for the preceding year to the governor and the clerks of the senate and house of representatives. Each such report shall set forth a complete operating and financial statement of the Authority.

SECTION 41. The books and records of the Authority shall be subject to an annual audit by the auditor of the commonwealth.

SECTION 41A. The provisions of chapter twelve A of the General Laws which are applicable to public authorities shall apply to the Massachusetts Convention Center Authority.

SECTION 42. Chapter 486 of the acts of 1980 is hereby amended by striking out section 2 and inserting in place thereof

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WASHINGTON, D.C.

Acts, 1991 - Chap. 138

chapter 629, and inserting in place thereof the following four clauses:-

(u) To rent or lease to, or otherwise make available for use or occupancy by, any public or private entity, any building, structure or other facility or portion thereof under the control or jurisdiction of the authority and to establish rules and regulations related to such renting, leasing, use or occupancy; provided that no such facility shall be placed so exclusively at the disposal of one or more users as to unduly restrict a diversity of use by others in the public interest.

(v) To contract with and to grant concessions to any public or private entity for the operation of any building, structure or other facility or portion thereof under the control or jurisdiction of the authority, or for the furnishing of goods and services thereto or to persons admitted thereto.

(w) To promote and encourage the use of civic, conference or convention centers, exhibition halls or like facilities throughout the commonwealth by entering into contracts at its discretion with interested public bodies, including without limitation those who have received grants under section fourteen of chapter twenty-three A of the General Laws, to provide technical assistance and consultation or to manage or operate such facilities, or to purchase, lease or otherwise acquire such facilities, or by other appropriate means.

(x) To do all things necessary, convenient, or desirable to carry out the purposes of this act.

In exercising its powers under clauses (o), (u), (v), and (w), the Authority may, where appropriate, contract and grant concessions for goods, services or promotions, and may rent, lease or make available facilities to users of any type on an exclusive basis, and may limit or displace competition and authorize such contracts, grants, rentals, leases or other arrangements to be entered into separately or in combination, whenever, in the Authority's judgment, to do so is necessary or desirable to further its public purposes; provided, however, that in making arrangement under said clauses with persons and entities operating for profit, the authority shall impose on them charges representing at least the fair market value of the privileges afforded and at least comparable to those which would be charged by a private owner or manager.

SECTION 312. Said chapter 190 is hereby further amended by inserting after section 35 the following section:-

Section 35A. The executive director of the Authority shall annually, on or before a date set by the secretary of administration and finance, submit to the budget director statements prepared in accordance with section three of chapter twenty-nine of the General Laws, indicating the estimated net cost of operations of the Authority for the next fiscal year and requesting an appropriation from the commonwealth in an amount necessary to meet such net cost of operations.

SECTION 313. Said chapter 190 is hereby further amended by inserting after section 38j, inserted by section 13 of chapter 629 of the acts of 1982, the following four sections:-

Section 38K. The Authority is hereby authorized and directed to prepare and submit to the governor, the president of the senate, the speaker of the house of representatives, the chairman of the senate committee on ways and means, the chairman of the house committee on ways and means, and the secretary of administration and finance, a comprehensive report on the adequacy of existing facilities throughout the commonwealth to attract and accommodate large gatherings of governmental, civic, trade, industry, and other national or international groups who wish to conduct conventions, meetings and other similar events within the commonwealth, together with a recommended program for upgrading and expanding such facilities and maximizing their use to the end that increased numbers of visitors will be attracted to various areas and municipalities of the commonwealth to promote economic health throughout

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the commonwealth. There may be submitted as part of said report one or more studies conducted by independent consultants as to the feasibility of establishing or improving and operating specific facilities for the foregoing purposes, including:

- (a) a description of the locations deemed suitable by the Authority for such facilities;
- (b) a description of the lands, structures, fixtures, and facilities deemed necessary or appropriate by the Authority for the construction or reconstruction of such facilities;
- (c) an estimate of the capital expenses estimated by the Authority as necessary for the construction or reconstruction of such facilities;
- (d) an estimate of the operational expenses estimated by the authority as necessary for the operation and maintenance of such facilities; and
- (e) a proposal by the Authority for the provision of funds sufficient to meet the capital and operating costs, including projected income, associated with such facilities.

Section 38I. Prior to undertaking any project not located in the city of Boston, the Authority shall submit a proposal for such project to the secretary of administration for certification and approval. The proposal shall include a feasibility study of the proposed project including the project costs, sources of funding for project costs, the project schedule, an analysis of the economic benefits such as increased tax revenues and employment to the project region and to the commonwealth resulting from the project, an analysis of the operating costs of any constructed, newly acquired, expanded, or improved facility for the first five years of operation following construction, acquisition, expansion or improvements and sources of revenue available to meet those operating costs and such other information as will assist said secretary in making a determination.

If said secretary, in consultation with the division of capital planning and operations and based upon any information required and obtained by said secretary from the Authority or other governmental entity, determines that the proposal provides a reasonably accurate estimate of the project requirement, costs and schedule, and that the project can be accomplished without substantial deviation therefrom; a reasonably accurate statement of the needs for and benefits of the project; a reasonably accurate estimate of operating costs and the revenue available to meet those operating costs; and a reasonably accurate statement as to the sources of funding available or required to complete the project, said secretary shall certify the same and shall approve the proposal. Any proposal not certified and approved or disapproved by said secretary within said sixty days shall be deemed approved unless said secretary provides the Authority with the reasons, in writing, for his refusal to certify the proposal and affords the Authority a reasonable opportunity to cure any defects.

Section 38M. Any city, town, or other political subdivision or public instrumentality in the commonwealth may, with the consent of the Authority, and subject to the provisions of section thirty-eight N of this act, sell, lease, or otherwise transfer any convention center, civic center, conference center, exhibition hall or like facility together with any ancillary facilities as described in the definition of "Project" in section thirty-two and any real property interests or other property connected therewith to the authority with or without consideration, or may contract for the authority to manage, operate and promote the same on such terms as may be agreed upon, any such sale, lease, transfer, or contract to be authorized, in the case of a city or town, by a majority vote as defined in section one of chapter forty-four of the General Laws. Such authorization may be in general terms.

Section 38N. (a) The Authority shall not consent to any sale, lease, transfer or contract pursuant to section thirty-eight M, nor shall the Authority in connection with any capital facility project for which the estimated construction cost is equal to or greater than one million dollars enter into any contracts, incur any other obligation, or cause to be performed any design services or construction, other than preparation of master plans, studies, surveys, soil tests, cost estimates, or programs, unless such sale, lease, transfer of contract or such capital facility project has been authorized by the general court or is necessary for the maintenance or repair of a capital facility owned by, the Authority. Every authorization for such sale, lease, transfer or contract or for such capital facility project shall be deemed to require the satisfactory completion of an antecedent feasibility study and program unless such authorization explicitly states that no such study program need or shall be done.

(b) A feasibility study and program shall not be deemed satisfactorily completed unless and until it is approved by the general court. The Authority shall file with the clerks of the senate and the house of representatives and the senate and house committees on ways and means any feasibility studies or program for which the Authority seeks approval by the general court. When the Authority has filed a feasibility study and program prior to authorization by the general court of a sale, lease, transfer, contract, or capital facility project pursuant to paragraph (a) such authorization shall to the extent provided constitute the approval of the feasibility study and program.

(c) For the purposes of this section, the terms "capital facility program", "study", and "program", shall have the meanings set forth in section thirty-nine A of chapter seven of the General Laws.

(d) The Authority shall not consent to any sale, lease, transfer, or contract, subject to the provisions of paragraph (a), nor shall the Authority enter into any contract or incur any obligation or cause to be performed design services or construction for a capital facilities project subject to the provisions of paragraph (a), unless the executive director certifies in writing that such sale, lease, transfer, or contract or such design services, or such construction, as the case may be, shall be undertaken in conformity with the authorization from the general court and without substantial deviation from the study and program, and within the project cost limits specified by the appropriation or authorization. In no event shall design or construction work be such as would result in a change in the number of gross square feet to be constructed in the project of more than ten percent from the number specified in the study or program.

SECTION 314. Section 39I of said chapter 190, as inserted by section 15 of said chapter 629, is hereby amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

The contract entered into pursuant to the provisions of this section shall require in connection with each designation thereunder a certification from the executive director of the Authority, expressly approved by the authority at a regular or special meeting of the authority, to the effect that the Authority is in compliance with all applicable provisions of law, including without limitation the applicable provisions of chapter one hundred and ninety of the acts of nineteen hundred and eighty-two and chapters twenty-nine, thirty, and one hundred and forty-nine of the General Laws; that the Authority is in compliance with all applicable laws within the jurisdiction of the office of the inspector general of the commonwealth; that the Authority has reasonably relied on independent professional expertise and advice in all aspects of the project covered by such designation directly or indirectly affecting present or prospective costs to the commonwealth; and that the Authority has consulted with the finance advisory board established by section ninety-seven of chapter six of the General Laws as to the timing and terms of the bonds described in such designation. Such contract

Chapter 309 of the Acts of 2008

AN ACT RELATIVE TO THE MASSACHUSETTS CONVENTION CENTER AUTHORITY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

The filing by the Massachusetts Convention Center Authority of a report entitled "Hynes Convention Center Feasibility Study" and dated December 2007, with the clerks of the senate and house of representatives, the senate and house committees on ways and means and the joint committee on state administration and regulatory oversight shall constitute authorization by the general court and full compliance with section 38N of chapter 190 of the acts of 1982 with respect to any capital facility project undertaken by the authority in connection with this study.

Approved August 12 , 2008

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